

Message Text

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ACTION ARA-10

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SUBJECT: GOP PROMULGATES DECREE ESTABLISHING CONTROLS

OVER SMALL-SCALE ENTERPRISES WITH REQUIRED
PROFIT SHARING FEATURE

1. BY DECREE LAW 21435, GOP CABINET FEBRUARY 24 PROMULGATED
CONTROLS OVER ALL SMALL-SCALE ENTERPRISES WHICH WILL INVOLVE
FORCED PROFIT SHARING, BUT NOT CO-OWNERSHIP BY THE WORKERS
IN ALL SUCH FIRMS.

2. SIGNIFICANT FEATURES OF THE DECREE INCLUDE: A) SETTING
CEILINGS AS FOLLOW ON GROSS SALES OF FIRMS FOR INCLUSION IN
THE SMALL-SCALE ENTERPRISE SECTOR: AGRICULTURAL AND FISHING
FIRMS, \$187,000; EXTRACTIVE FIRMS, \$774,088; TRANSFORMA-
TION FIRMS, \$556,960; RETAIL WHOLESALE FIRMS, \$556,960. FIRMS
WITH SALES EXCEEDING THESE LIMITS ARE NOT SUBJECT TO THE
TERMS OF THE DECREE; B) FULL- TIME WORKERS WILL RECEIVE A
PERCENTAGE OF THEIR FIRM'S NET PROFITS (FROM 50 PERCENT TO
10 PERCENT DEPENDING ON TYPE OF ENTERPRISE); C) PRO-
HIBITION OF SALARIES TO ANY EMPLOYEE OF THE FIRM WHICH
EXCEEDS BY A FACTOR FO TWELVE THE LOWEST SALARY IN THE
FIRM; D) PROHIBITION AGAINST FOREIGN OWNERSHIP OF SUCH
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FIRMS. (EACH FIRM HAS TIME LIMIT OF 30 DAYS TO LIQUIDATE

ITS FOREIGN HOLDINGS; E) ESTABLISHMENT OF A SINGLE INCOME TAX ON FIRMS RATHER THAN PRESENT MULTIPLE TAX SYSTEM; F) PROHIBITION AGAINST PARTICIPATION IN SIMILAR OR COMPETITIVE ENTERPRISES BY OWNERS OR SHAREHOLDERS OF A FIRM; G) APPLICATION OF DECREE TO SMALL-SCALE ECONOMIC ACTIVITY TO PERSONS WHO ARE ORGANIZED IN GROUPS, OR IN A CORPORATIVE FORM; H) SMALLER COMPANIES WHICH ALREADY HAVE A LABOR COMMUNITY (MINING, FISHING, AGRICULTURE, TELECOMMUNICATIONS) WILL CONTINUE WITH THE COMMUNITY NOTWITHSTANDING PROVISIONS OF NEW LAW.

3. JUSTIFICATION FOR NEW SECTOR IS CONTAINED IN PREAMBULAR SECTIONS OF THE DECREE WHICH STATES THAT SMALL ENTERPRISES ARE SOURCE OF PRODUCTION AND GROWTH WITHIN OVERALL "PLURALIST ECONOMIC SYSTEM", AND THAT NEW SECTOR IS TO INCLUDE "EXCLUSIVELY PRIVATE SMALL-SCALE ENTERPRISES", TO COMPLEMENT EXISTING STATE, SOCIAL PROPERTY AND REFORMED PRIVATE (LABOR COMMUNITY) SECTORS.

4. COMMENT: NEW DECREE HAS BEEN UNDER CONSIDERATION FOR BETTER PART OF A YEAR. ITS GENERAL THRUST FOLLOWS STANDARD GOP IDEOLOGICAL BASES WHICH EMPHASIZE REDISTRIBUTION OF INCOME. DECREE IS DESIGNED TO FAVOR LABOR FACTOR SERVICES OVER CAPITAL AND AT BEST WILL BE RELUCTANTLY ACCEPTED BY SMALL BUSINESSMEN WHO WILL NOT BE PLEASED BY FORCED PROFIT-SHARING FEATURES.

5. ON FEBRUARY 19, INDUSTRY MINISTER GENERAL IBANEZ O'BRIEN TOLD PRESS CONFERENCE THAT NEW DECREE FOR SMALL ENTERPRISES WOULD BE APPEARING THIS MONTH AND THAT IT WOULD BE DESIGNED TO "PROVIDE DYNAMIC IMPETUS TO THE NATIONAL ECONOMY BY ABSORBING LARGE SECTORS OF THE POPULATION." IT IS SIGNIFICANT THAT THE NEW DECREE DOES NOT CONTAIN COMANAGEMENT OR CO-OWNERSHIP FEATURES OF THE INDUSTRIAL COMMUNITY LAW ALTHOUGH IT ALLOWS EXISTING COMMUNITIES TO REMAIN. SOME OBSERVERS ARE ALREADY INTERPRETING THIS FACT TO MEAN THAT GOP MAY BE MOVING AWAY FROM COMANAGEMENT FEATURES OF INDUSTRIAL COMMUNITY WHICH GENERALLY HAVE BEEN COUNTERPRODUCTIVE. FURTHER, WE UNDERSTAND THAT SOME MODERATE GOP ADVISORS HAVE SUGGESTED THAT THE INDUSTRIAL COMMUNITY LAW BE CHANGED TO MODIFY IF NOT DROP PRESENT RELIMITED OFFICIAL USE

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QUIRMENT WHICH PERMITS WORKERS TO EVENTUALLY ASSUME 50 PERCENT CONTROL OF STOCK OF INDUSTRIAL CONCERNS. ON THE OTHER HAND, IT WOULD HAVE BEEN VIRTUALLY IMPOSSIBLE TO ADMINISTER AN INDUSTRIAL COMMUNITY COMANAGEMENT MECHANISM IN SMALL ENTERPRISES, SO ITS ABSENCE IN THE NEW DECREE IS NOT SURPRISING.

6. ONEROUS FEATURES OF NEW LAW INCLUDE, INTER ALIA,

THE APPARENT ABSOLUTE PROHIBITION OF FOREIGN OWNERSHIP OF ENTERPRISES FALLING UNDER PROVISIONS OF THE LAW. THIS COULD AFFECT NUMEROUS FOREIGNERS WHO OPERATE SMALL CONCERNS HERE. THE LAW WOULD ALSO AFFECT SMALL SERVICE ACTIVITIES, INCLUDING DENTISTS, DOCTORS AND OTHER PROFESSIONALS IF STRIGNENTLY APPLIED ACCORDING TO LANGUAGE OF DECREE.

7. IN SUM, THIS LAW COULD HAVE BEEN MORE DRACONIAN AND MUCH WILL DEPEND ON THE RIGOR WITH WHICH THE GOP APPLIES ITS LANGUAGE. IT, HOWEVER, ESTABLISHES RULES FOR ONE OF THE TWO REMAINING SECTORS OF THE ECONOMY WHICH HAD NOT BEEN "SECTORIZED". THE OTHER IS THE COMMERCIAL SECTOR FOR WHICH THE GOP HAS UNDER STUDY A "COMMERCIAL COMMUNITY LAW" SIMILAR TO THE INDUSTRIAL COMMUNITY LEGISLATION.

8. WE WILL BE DISCUSSING IMPLICATIONS OF THE NEW DECREE WITH GOVERNMENT AND PRIVATE SECTOR REPRESENTATIVES AND WILL REPORT ACCORDINGLY. (NOTE: CEILINGS BY SECTOR REPORTED PARA 2 ABOVE ARE BASED ON EMBASSY CALCULATIONS AND ARE PRELIMINARY.) EMBASSY POUCHING TEXT OF DECREE TO ARA/LA-EP.
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